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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,683	06/27/2003	Lilkar Zugeil Molina	8797R	7701

27752 7590 10/11/2005

THE PROCTER & GAMBLE COMPANY  
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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/607,683

Applicant(s)

MOLINA ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-6,12 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,12 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/29/05</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-6, 12 and 15-17 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Hirotsu (2004/0102748). Hirotsu discloses a package comprising a container (10) having an interior space and the container formed from a layer having an interior surface and an exterior surface, a plurality of absorbent articles (20) contained within the interior space of the container with each of the absorbent articles having a thickness and being individually wrapped in a wrapper (page 2, paragraph 0024) and the wrapper having a signal indicating a pre-determined absorbent article performance characteristic displayed as a distinctive color on the wrapper of each of the absorbent articles (page 3, paragraph 0027) and the exterior surface of the container (graph 17 and page 4, paragraphs 0038-0040) and a first window (16) revealing at least a portion of the thickness of at least one of the absorbent articles and at least a portion of the distinctive color of the wrapper (page 3, paragraph 0033).

As to claims 4-5 and 16-17, see background.

As to claim 6, see paragraph 0033.

As to claim 12, see paragraph 0022.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-6, 12 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brisebois et al. (6,454,095; hereinafter Brisebois'095) in view of Nelson (3,306,437) and The Box of Tampons at the Museum of Menstruation and Women's Health from [HTTP://MUM.ORG/FREEDBOX.HTM](http://mum.org/freedbox.htm) (hereinafter Box of Tampons). Brisebois'095 discloses a package comprising a container (102) containing a plurality of absorbent articles (206) with each of the absorbent articles having a thickness and being individually wrapped in a wrapper and each wrapper having a signal indicating a pre-determined absorbent article performance characteristic (104) and the signal of the pre-determined absorbent article performance characteristic is displayed as a distinctive design on the wrapper and the exterior surface of the container (Figures 1-8). Brisebois'095 also discloses the other claimed limitations except for the signal of the pre-determined absorbent article performance characteristic being displayed as a distinctive color and the container comprises a first window for revealing at least a portion of the thickness of at least one of the absorbent articles and at least a portion of the distinctive color of the wrapper.

Nelson teaches a container (10) having a color coded (26), a plurality of inner container (15) having a color coded (26) corresponding to the color coded of the container and a plurality of packages (20) including a color coded (26) corresponding to the color coded on the inner

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container. Box of Tampons discloses a package comprising a container including a layer forming an interior space having an interior surface and an exterior surface, a plurality of absorbent articles (tampons) forming a stack disposed within the interior space of the container with each of the absorbent articles having a thickness and being individually wrapped in a wrapper and each wrapper having a distinctive design and a first color and the exterior surface of the container including a distinctive color which is color coordinated with the first color of the distinctive design. The container further including a first window revealing at least a portion of the thickness of at least one of said absorbent articles and at least a portion of the distinctive design of the wrapper. The first color of the wrapper is a complimentary color or an analogous color of the distinctive color.

It would have been obvious to one having ordinary skill in the art in view of Nelson and Box of Tampons to modify the package of Brisebois'095 so the performance characteristic is displayed as a distinctive color as taught by Nelson to provide more convenience for the user and the package includes a first window for revealing at least a portion of the thickness of at least one of the absorbent articles and at least a portion of the distinctive color of the wrapper to allow visual access to the articles within the package.

### ***Response to Arguments***

Applicant's arguments with respect to 8/29/2005 have been considered but are deemed to be moot in view of the new grounds of rejection.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb  
October 6, 2005



Luan K. Bui  
Primary Examiner